



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

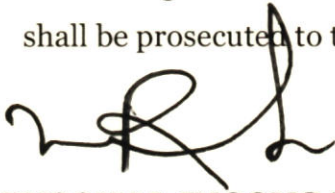
PRESS STATEMENT

UPDATE ON THE CASE INVOLVING THE ENFORCED DISAPPEARANCE OF A KENYAN NATIONAL AND TWO (2) INDIAN NATIONALS

1. The case involves the enforced disappearance of three (3) individuals namely; Mr. Nicodemus Mwanja Mwange, a Kenyan national and two (2) Indian nationals, Mr. Mohamed Zaid Sami and Mr. Zulfiqar Ahmed Khan came up for mention today, **Tuesday, 17th October, 2023** before the **Kahawa Law Courts** presided over by Hon. Gideon Kiage, Principal Magistrate for Plea taking.
2. The case relates to allegations that police officers who were serving in the **disbanded Special Services Unit (SSU)** together with other security agencies committed various offences including; planning and execution of the enforced disappearance and forceful abduction of the three (3) victims.
3. Consequently, the Internal Affairs Unit (IAU) carried out comprehensive investigations into the matter and forwarded the inquiry file for perusal and directions.
4. On **16th October 2023**, the Director of Public Prosecutions (DPP) upon thorough evaluation of the facts and evidence contained in the inquiry file, and taking into account the relevant laws and the decision to charge guidelines 2019, was satisfied that *prima facie*, the accused persons are culpable, and directed that the accused persons be charged accordingly.

5. The fifteen (15) accused persons, among them thirteen (13) DCI officers from the disbanded Special Services Unit (SSU), one (1) officer from the National Intelligence Service and one (1) Warden from the Kenya Wildlife Service were arraigned before the Kahawa Law Courts to face the underlisted charges:
- (i) Abduction with intent to murder contrary to Section 258 of the Penal Code Chapter 63, Laws for Kenya.
 - (ii) Conspiracy to commit a felony contrary to Section 393 of the Penal Code, Chapter 63, Laws of Kenya.
 - (iii) Subjecting a Person to cruel, inhumane and degrading treatment contrary to Section 51 (3) of the National Intelligence Service Act, No. 28 of 2012, Laws of Kenya.
 - (iv) Committing cruel, inhuman or degrading treatment contrary to Section 7(a) of the Prevention of Torture Act No. 12 of 2017, Laws of Kenya.
 - (v) Cooperating in the execution of cruel, inhuman or degrading treatment or punishment contrary to Section 7(b) of the Prevention of Torture Act No. 12 of 2017, Laws of Kenya.
 - (vi) Forgery contrary to Section 345 as read with Section 349 of the Penal Code, Chapter 63, Laws of Kenya and;
 - (vii) Forgery of Official document contrary to Section 351 of the Penal Code, Chapter 63, Laws of Kenya, among other offences.
6. The Office of the Director of Public Prosecutions (ODPP) opposed the release of the accused persons on bail vide an affidavit dated **17th October 2023**, and sought to have the accused persons detained pending the hearing of the case due to the **extreme seriousness of enforced disappearances which constitutes an international crime**, a violation of human rights amounting to a Crime against Humanity.
7. In the meantime, the accused persons will be detained at Kiambu GK Prison pending ruling on bond scheduled for **3rd November 2023** before Kahawa Law Courts.

8. The DPP recognizes that the investigations into this matter is complex and I hereby direct the Inspector-General to inquire into the aspect of murder and torture as a Crime against Humanity under the **International Crimes Act No. 16 of 2008**.
9. Kenya is a signatory to the International **Convention for the Protection of all Persons from Enforced Disappearance** which defines *Enforced Disappearance* under **Article 2**, and clearly enumerates the fundamental *non-derogable rights* of victims of this heinous crime under **Article 24**.
10. The DPP is dedicated and committed to the basic principle that victims and their families have a right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person, and further recognizes the national and international resolve to end extrajudicial killings and enforced disappearances in Kenya or elsewhere.
11. The DPP reiterates his endeavor to continue the coordination, cooperation and collaboration with the National Police Service (NPS) into the foreseeable future in order to enhance accountability, efficiency and expeditiousness in the prosecution of similar cases within the criminal justice system.
12. The ODPP reiterates its commitment to upholding the rule of law and respect for Human rights and all persons found culpable and others who may still be at large, shall be prosecuted to the fullest extent of the law.



RENSON M. INGONGA, OGW
DIRECTOR OF PUBLIC PROSECUTIONS

Tuesday, 17th October 2023